

On 2-4-57, the claimant having previously withdrawn the answer and claim, the court entered a decree of condemnation and destruction.

5298. 30 Plus tablets. (F. D. C. No. 39251. S. No. 58-581 M.)

QUANTITY: 64 120-tablet btls. at Denver, Colo., in possession of Woodard Laboratories of Colorado.

SHIPPED: On 4-26-56 and 6-4-56, from Hollywood, Calif., by Pacific Mineral Industries.

LABEL IN PART: "30 Plus An Organic Formula Iron, Iodine And Copper in A Special Base Of Mexican Damiana Leaves Honduras Sarsaparilla Root True Cramp Bark - Squaw Vine Black Haw Bark of Root * * * A Dietary Supplement."

ACCOMPANYING LABELING: Circulars entitled "Organic Herbs And Minerals Containing Natural Hormones," "Tired—Run Down—Weak—Listless—Tired Blood Due To Iron Deficiency Anemia * * * Formula 30 Plus," "Look For Nutritional Iron And Iodine Deficiencies," and "Doctor's Order Form."

RESULTS OF INVESTIGATION: The circular entitled "Doctor's Order Form" was printed for the consignee, and the other circulars were shipped to the consignee on various dates by the Pacific Mineral Industries.

LIBELED: 6-18-56, Dist. Colo.

CHARGE: 502 (a)—when the article was shipped and while it was held for sale, the accompanying labeling contained false and misleading representations that the article was an adequate and effective treatment for menopausal symptoms, palpitation of the heart, nervousness, symptoms caused by insufficient hormone production by the body, iron deficiency anemia, and symptoms attributed to iron deficiency anemia.

DISPOSITION: 8-23-56. Default—destruction.

5299. Radium Stone device. (F. D. C. No. 39513. S. No. 27-394 M.)

QUANTITY: 36 *Radium Stone devices and accessories* consisting of 72 3-gal. stoneware crocks with spigots and 18 lbs. of ground yellow mineral, at Dallas, Tex., in possession of J. R. Hogan.

SHIPPED: On or about 2-9-56, a quantity of ground yellow mineral was transported from Colorado Springs, Colo., to Dallas, Tex., by J. R. Hogan.

ACCOMPANYING LABELING: Leaflets entitled "Have A Radioactive Spring In Your Home" and "Instructions for Use of Radium Stone."

RESULTS OF INVESTIGATION: After transporting the ground yellow mineral to Dallas, Tex., J. R. Hogan added a portion of the mineral to ready-mixed concrete and made 36 concrete objects in the shape of cone frustums, some of which measured 4 inches in height and 2½ inches in diameter at the base and others 2 inches in height and 3 inches in diameter at the base. Each concrete cone frustum was known as a "Radium Stone," and it purported to produce radioactive water when placed in a 3-gal. crock filled with water. The directions for use provided for drinking not less than 12 glasses a day of the treated water.

Examination showed that the concrete cone frustums and the ground yellow mineral matter emitted slight beta gamma radiation.

LIBELED: 11-2-56, N. Dist. Tex.

CHARGE: 502 (a)—the labeling accompanying the article, while held for sale, contained false and misleading representations that the article was a phys-

ical stimulator to the entire body, would help the body throw off natural waste and activate the metabolic processes, would promote natural functioning of the ductless glands, produce vascular changes in the nervous system, reduce cerebral hypertension, stimulate the sex organs, would act as a diuretic, promote digestion, give increased vigor to all body processes, stimulate intellectual facilities, prevent insanity, promote a healthy brain, retard advance of old age, create a splendid, youthful, joyous life, and destroy disease; that the article was a sure cure for anthrax, typhoid, diphtheria, cancer, neuritis, neuralgia, tumors, and abnormal growths; that the article would reduce high blood pressure and prevent hardening of the arteries; and that the article would prevent tumors, ulcers, cancer, and goiter in children.

DISPOSITION: 12-17-56. Default—a portion of the article was delivered to the Food and Drug Administration, and a number of the stoneware crocks were delivered for use of a Federal institution. The remainder of the article was destroyed.

DRUG FOR VETERINARY USE

5300. Barton's Cannibalism Remedy. (F. D. C. No. 37922. S. No. 8-731 M.)

QUANTITY: 18 cases, 12 cans each, at Lincoln, Nebr.

SHIPPED: During December 1954, from Galesburg, Ill., by Lyles Products Co.

LABEL IN PART: (Can) "Barton's Cannibalism Remedy * * * Ingredients: Special Steamed Bone Meal, Di Sodium Phosphate, Calcium Carbonate, Sodium Sulphate, Potassium Iodide, Charcoal, Manganese Sulphate, Soda Bicarbonate, Flowers of Sulphur, Iron Sulphate, Copper Sulphate, Yeast, Anise, Blood Flour. * * * 2 Pounds Net Weight."

ACCOMPANYING LABELING: Streamers entitled "For Cannibalism Trouble Use The Proven Treatment We Guarantee Satisfaction Barton's Cannibalism Remedy" and circulars entitled "Barton's Cannibalism News."

LIBELED: 4-19-55, Dist. Nebr.; libel amended 11-3-55.

CHARGE: 502 (a)—the labeling of the article, when shipped and while held for sale, contained false and misleading representations that the article would overcome cannibalism in poultry.

DISPOSITION: Lyles Products Co., claimant, filed an answer denying that the article was misbranded as alleged. The Government and the claimant served interrogatories upon each other. The Government answered all of the interrogatories served upon it, and the claimant answered some of the interrogatories and filed objections to the remaining interrogatories. The hearing on the objections was held on 8-26-55, and on 8-27-55 the court handed down the following opinion:

DELEHANT, *District Judge*: "The United States, by Libel of Information, seeks, under Title 21 U. S. C., Section 334, to obtain the forfeiture of a designated number of cases and cans alleged to contain quantities of 'Barton's Cannibalism Remedy,' a product designed for use in the feeding of poultry. The designated claimant answers, alleging its interest in the proceeding as the manufacturer and labeler of the product and as the person liable to the possessor for its purchase price if the libel be allowed. The libel of information alleges misbranding through false claims in labeling material.

"Pretrial discovery proceedings provoke this ruling. Plaintiff has addressed certain written interrogatories under Rule 33 of the Rules of Civil Procedure to claimant. Claimant has served and filed formal objections to some of the interrogatories and made answer to others, contending, in fact that it has actually answered all of the interrogatories not specifically objected to.